

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-212098

DATE: September 12, 1983

MATTER OF: J&M Service Company

DIGEST:

1. Since award must be based on criteria stated in the solicitation, it would have been improper to award protester preference as minority-owned firm located in labor surplus area where these factors were not stated in the solicitation.
2. GAO does not review protests against affirmative determinations of responsibility except in circumstances not applicable here.
3. There is no merit to contention that the second low bidder also should have received an award where the agency determined that the low bidder was capable of fulfilling all of its requirements.

J&M Service Company (J&M) protests the award of a contract under solicitation No. WYC-E3-R-1015 issued by the General Services Administration (GSA) for furniture upholstery and wood refinishing.

J&M complains that it received no consideration for its status as a minority-owned business located in a hard core unemployment area. Further, J&M asserts that the awardee may be unable to meet the time of performance required under the solicitation. Finally, J&M argues that one firm is incapable of sufficiently servicing the Government under the contract and suggests that the Government would be more effectively serviced by making multiple awards.

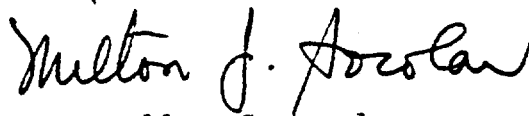
With regard to J&M's first argument, we are advised that the solicitation contained no provision giving a preference to minority-owned firms or firms located in labor surplus areas. Since award must be based on the evaluation criteria stated in the solicitation, it would have been improper to award J&M the preference requested. Metro Contract Services, Inc., B-191138, July 5, 1978, 78-2 CPD 6.

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The second argument relates to the awardee's ability to perform in accordance with the specifications, a matter of bidder responsibility. We will not review a protest against an affirmative determination of responsibility, which is largely a business judgment, unless there is a showing of possible fraud or bad faith on the part of procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. American Medical Corporation, B-210353, February 1, 1983, 83-1 CPD 115. Neither exception applies here.

Finally, we see no merit to the contention that J&M, the second low bidder, also should have received an award where the agency determined that the low bidder was capable of fulfilling all of its requirements.

The protest is summarily denied in part and dismissed in part. 4 C.F.R. § 21.3(g) (1983).

for 
Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

September 12, 1983

B-212098

The Honorable Steny H. Hoyer
House of Representatives

Dear Mr. Hoyer:

We refer to your letter of June 20, 1983, in regard to the protest of J&M Service Company concerning the award of a contract under solicitation No. WYC-E3-R-1015 issued by the General Services Administration.

Enclosed is a copy of our decision of today.

Sincerely yours,

Milton J. Aroskar
for
Comptroller General
of the United States

Enclosure